

COPY

IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

ANTWON KENNEDY
P.O. BOX 1516
MARIETTA, GA 30061
PLAINTIFF (pro se)

v.

INDUSTRYPRO.COM, INC
117 TOWNE LAKE PARKWAY
SUITE 310
WOODSTOCK, GA 30188
DEFENDANT

Case No.

15-CV-061-JA

FILED IN OFFICE
CLERK OF SUPERIOR COURT
CLERK OF STATE COURT
CHEROKEE COUNTY GA
2015 JUN 17 PM 12:06
PATTY BAKER, CLERK

COMPLAINT

COMES NOW Antwon Kennedy (hereinafter "Mr. Kennedy" or "Plaintiff"), files this Complaint against the Defendant, INDUSTRYPRO.COM, INC (hereinafter "Company", "IndustryPro" or "Defendant"), and shows the Court as follows:

Parties, Jurisdiction and Venue

1. Plaintiff Antwon Kennedy is a resident of Cobb County, Georgia. During all times relevant to this Complaint, Plaintiff was an employee of IndustryPro as an Intern and a student at Kennesaw State University.
2. Defendant IndustryPro is a for-profit Mergers and Acquisitions (M&A) Advisory firm that assists companies on the buy and sell side. The Company is incorporated in the state of Utah and has an office in Cherokee County, Georgia and is subject to the jurisdiction of this Court.
3. This is a civil action arising under O.C.G.A. § 34-4-6, The Fair Labor Standards Act section 206 and the U.S. Department of Labor Wage and Hour Division Fact Sheet #71.
4. Venue is proper in this Court because the Defendant conducts business and uses real property in Cherokee County and Georgia law allows for the case to be heard in Superior Court.

Statement of Facts

5. The Plaintiff worked for IndustryPro as an Intern from September 11, 2014 until November 13, 2014; and from January 12, 2015 until April 18, 2015 for a total of 24 weeks. The Plaintiff worked an average of 10 hours a week. During that time, the Plaintiff received two \$100 commissions for work performed.

6. From January 12, 2015 until April 18, 2015, as part of Kennesaw State University's Experiential Education Program, the Plaintiff received 3 credit hours for working with IndustryPro during that time frame.

7. The role of the intern at IndustryPro is to search industry publications and commercial databases for acquisitions, owners, buyers, and industry trends. Build a database with contact information and verify the information for accuracy. And, utilizing email and phone to arrange introductions between investors, owners and IndustryPro executives.

8. The role of the IndustryPro intern was unpaid. However, the Company offered a commission/bonus structure based upon conference calls originated. Additionally, after 3 months, based upon performance, an intern could be considered for part time pay of \$12/hr. or full time telecommute employment (See Exhibit A). Details of the pay structure were discussed in the non-disclosure agreement required by all interns to sign before beginning to work with IndustryPro.

9. The Plaintiff took part in searching industry publications and commercial databases for acquisitions, owners, and industry trends; and built several databases with contact information and verified the information for accuracy. The databases were submitted to employees of the Defendant for processing.

10. The Defendant through its employees, would provide the Plaintiff occasional training, and feedback about the databases submitted.
11. At times the Defendant through its employees requested that the Plaintiff make corrections, revisions or updates to the databases before they could be utilized to help generate revenue.

Count I

Violation of the Fair Labor Standards Act Section 206

12. The Plaintiff alleges that the Defendant misclassified the Plaintiff as an unpaid Intern in order to avoid paying the plaintiff a minimum wage.
13. The U.S. Department of Labor Wage and Hour Division Fact Sheet #71, establishes 6 criteria that need to be met in order for a for-profit company to avoid the FLSA's minimum wage provision. The Defendant failed to meet all 6 requirements.
14. In regard to Fact Sheet #71, the Defendant clearly failed to meet criteria numbers 3 and 4; and it can be argued that the Defendant failed to meet criteria numbers 1,2, 5 and 6.
15. Criteria 3 states that: "The intern does not displace regular employees, but works under close supervision of existing staff." However, the Plaintiff played a significantly essential role in securing new clients for the Defendant. Without the role of the Plaintiff, the Defendant would have had to hire workers to search industry publications and commercial databases for acquisitions, owners, buyers, industry trends. A M&A firm cannot exist without someone searching for new clients.
16. Criteria 4 states that: "The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be

impeded;.” However, the main role of the Plaintiff was to source new clients for the Defendant. By acquiring new clients, the Defendant increases its revenues.

17. Criteria 1 and 2 respectively states that: “The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment; and The internship experience is for the benefit of the intern;.” The Plaintiff acknowledges that some of the training was similar to training which would be given in an educational environment. However, after over three months on the job and being recognized as one of “The Best” interns, the Plaintiff was not offered a paying or full time position. Thus it is arguable whether the Plaintiff benefited from not being offered a permanent position with IndustryPro or from any knowledge gained while working for IndustryPro.

18. Criteria 5 states that: “The intern is not necessarily entitled to a job at the conclusion of the internship;.” However, the Defendant led on that after 3 months, based upon performance, an intern could be considered for part time pay of \$12/hr. or full time telecommute employment.

19. Criteria 6 states that: “The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.” However, the Defendant offered the Plaintiff the possibility of a commission/bonus based upon conference calls originated.

20. By the Defendant doing the acts described above, the Plaintiff is entitled to recover damages pursuant to O.C.G.A. 34-4-6.

Request for Relief

WHEREFORE, the Plaintiff requests:

21. The Court award the Plaintiff back wages in the amount of \$1,740 covering the 24 weeks worked plus an equal amount as liquidated damages, all court costs and costs of litigation.

22. Any further relief which the court may deem appropriate.

Respectfully submitted this 17 day of June, 2015

pt-17

PLAINTIFF



Student Email

Exhibit A

Antwon Kennedy <akenne20@students.kennesaw.edu>

INTERNSHIP: INVESTMENT BANKING M & A FIRM... APPLY NOW!

1 message

Kathy Hallmark <khallmar@kennesaw.edu>
To: Antwon Kennedy <akenne20@students.kennesaw.edu>

Thu, Oct 9, 2014 at 2:07 PM

Antwon,

COLES COLLEGE: Spring 2015 GREAT INTERNSHIP OPPORTUNITY IN INVESTMENT BANKING...INDUSTRYPRO!

Investment Banking – Acquisition Analyst Intern

FIRM DESCRIPTION www.industrypro.com

IndustryPro is an M&A advisory firm founded in 1991. We facilitate business acquisitions, divestitures, management buy-outs, and recapitalizations of privately held companies. We provide the following services:

- *Sell Side Investment Banking
- *Private Equity Deal Sourcing
- *Strategic Acquisition Searches
- *Direct Investing

INTERNSHIP DESCRIPTION

As an intern for IndustryPro, you will gain exposure to a variety of businesses and industries. You will also gain significant knowledge and understanding of the private equity world. Typically, private equity firms will engage us to find acquisitions that fit their investment criteria. As an intern, your primary role will be to research the investment criteria of IndustryPro's private equity clients and to conduct acquisition searches. You will also have the opportunity to participate in management meetings and conference calls between investors and business owners. This will significantly enhance your transactional expertise and your understanding of the M&A process. Depending on your level of performance and dedication, you may be selected to join IndustryPro as a full-time analyst.

ORGANIZATION STRUCTURE

Interns will report to Daniel Pakkala, an Analyst (and former intern) but will also have the opportunity to work with IndustryPro's directors, John Penland, Wes McGinnis, and Zach Zirkle. It is anticipated that at any given time there will be four to eight part-time interns.

IMPORTANT ATTRIBUTES

- Attention to Detail
- Research-Oriented
- Intuitive (Self-starters will be successful)
- Reliability
- Proficiency with Microsoft Word and Excel

REQUIREMENTS

- GPA of 3.0 or higher
- Must display an interest in investment banking
- Basic understanding of the role of investment banks and private equity firms
- Access to PC/Laptop
- Coursework in finance/accounting/economics is preferred

COMPENSATION

Should an intern's acquisition search result in a conference call or a transaction, there is potential for performance-based compensation. An intern could earn up to a \$30,000 commission (amount varies with transaction size).

HOURS PER WEEK: 15-30 depending upon your needs for internship credit

DURATION: Internship will start in fall and continue through Spring 2015; potential for credit is available for Spring

LOCATION: 117 Towne Lake Pkwy, Suite 310, Woodstock, GA

TO APPLY: Send RESUME and COVER LETTER to Daniel Pakkala at dpakkala@industrypro.com

TO EARN INTERNSHIP CREDIT: NOTE: 3.0 GPA Requirement for this position

FIN: Admitted to Coles, completed FIN 3100, completed/enrolled in FIN 4000 level course, close to a 3.0 GPA

ECON: Admitted to Coles, completed FIN 3100, completed/enrolled in ECON 4000 level course, close to a 3.0 GPA

MGT: Admitted to Coles, completed MGT 3100, close to a 3.0 GPA

PS: Admitted to Coles, completed MKTG 3100 + 4000 level MKTG course, very close to a 3.0 GPA

Exhibit A

If you have any questions, please let me know.

Kathy

Kathy Hallmark, MEd
Career Services
Coles College of Business
Burruss Building 132F
The Career Services Center, KH 2617
Kennesaw State University
470-578-6555

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